

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

LEE BARNETT,

Plaintiff,

vs.

HOLCIM, INC.,

Defendant.

CV 14-09-BU-DWM

ORDER

Pending before the Court is Defendant Holcim, Inc.’s (“Holcim”) motion for summary judgment. (Doc. 38.) Magistrate Judge Lynch entered findings and recommendations on August 19, 2015, recommending the Court grant-in-part and deny-in-part Holcim’s motion. (Doc. 49.) The Court agrees. As the parties are familiar with the factual background, it will not be restated here.

Parties are entitled to *de novo* review of the specified findings or recommendations to which they object. 28 U.S.C. § 636(b)(1). Because neither party filed objections, the findings and recommendations are reviewed for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and

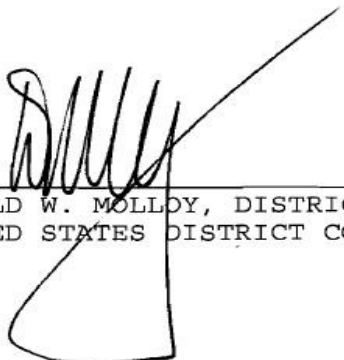
firm conviction that a mistake has been committed.” *Concrete Pipe & Prods. of Cal., Inc. v. Constr. Laborers Pension Trust for S. Cal.*, 508 U.S. 602, 623 (1993) (internal quotation marks omitted).

Judge Lynch did not clearly err in determining that a genuine issue of material fact exists as to whether Plaintiff Lee Barnett’s (“Barnett”) employment was terminated for good cause. Mont. Code Ann. § 39-2-904(1)(b). Nor did he err in finding that Barnett’s claim based on an alleged violation of Holcim’s personnel policy fails as a matter of law. § 39-2-904(1)(c).

Accordingly, IT IS ORDERED that the Findings and Recommendation (Doc. 49) are ADOPTED IN FULL.

IT IS FURTHER ORDERED that Holcim’s motion for summary judgment (Doc. 38) is GRANTED-IN-PART and DENIED-IN-PART. It is GRANTED as to Barnett’s claim under § 39-2-904(1)(c), but DENIED as to Barnett’s claim under § 39-2-904(1)(b).

Dated this 4th day of September, 2015.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT